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SUBJECT: MADAGASCAR ADOPTS NEW INVESTMENT LAW

¶1. (U) SUMMARY: In thorough consultation with Malagasy and international private sector, and with donors, the GOM drafted and adopted a new Investment Law to facilitate business entry into Madagascar. The law is a significant improvement in facilitating investment and makes the Economic Development Board - Madagascar (EDB-M) the focal point for new investors. END SUMMARY.

Investment Law Improves Access  
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¶2. (U) At the end of December, the National Assembly adopted a new Investment Law to improve the climate for investors. This cable provides highlights and private sector reaction; complete details will soon be available in Post's Investment Climate Statement and Country Commercial Guide.

¶3. (U) The dominant feature of the new investment law is to codify the role of the Economic Development Board - Madagascar (EDB-M). The agency serves as both "one stop shop" for business approval and as promoter of new trade and investment. The EDB-M will coordinate all relevant Ministries to ensure proposals are vetted and answered expeditiously. The EDB-M will facilitate visas, authorizations, permits, company registration, tax ID numbers, and licenses within 20 days. Business visas are extended from one to three years in duration. The EDB-M will have particular responsibility and authority for facilitating foreign investment in the tourism industry.

¶4. (U) Land ownership is now permitted for foreign interests without the necessity of a Malagasy partner. EDB-M will authorize foreign land acquisitions on behalf of the Ministry of Public Lands. Foreign and Malagasy investors will receive equal treatment, each being allowed to control 100 percent of company equity. The Law also provides for patent protection consistent with international norms.

¶5. (U) International financial transfers are now guaranteed, so investors' profits and income can be transferred out of Madagascar after full payment of taxes. "Industrial enterprises" receive a five-year tax exemption and "services enterprises" receive a two-year exemption. The Value-Added Tax on imports is eliminated and the profits tax is fixed at 10 percent.

¶6. (U) The Investment Law also alters the status of Export Processing Zone (EPZ) investments, simplifying procedures to a declaration by EDB-M once files are deposited. Approved EPZ companies have a 15-year tax exemption. It is noteworthy that agricultural exporters will not be eligible for EPZ privileges.

Operators Pleased, But Hoped For More Incentives  
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¶7. (U) Malagasy operators and their associations generally praised

the new Investment Law. They expressed concern that operators producing for the domestic market do not enjoy the same benefits as exporters. The mostly foreign-owned EPZ factories find the new law will facilitate their expansion. The Investment Law simplifies procedures and provides a more predictable environment for businesspeople. Despite relatively weak infrastructure, energy production, and port services, the Law will facilitate new and existing investments which seek to take advantage of Madagascar's abundant and cheap labor supply.

"Guarantee" Against Expropriation?

18. (SBU) The new Investment Law provides that foreign investors are "guarded against any privatization, expropriation, or requisition measures," with the vague exception for "cases in the public interest." Since President Ravalomanana came to power, the GOM has not nationalized any investments. Still, operators in direct competition with his TIKO company, like the American Seaboard Corporation, would challenge the notion that investors can operate in Madagascar unimpeded.

19. (SBU) COMMENT: The EDB-M, financed by the World Bank, has yet to score any major accomplishments during its year in existence. It remains to be seen whether the new law will stimulate an improvement in this track record. In June, 2008, EDB-M CEO Prega Ramsamy plans a "Road Show" to the United States to meet with potential investors. In addition to the guarantees and improved climate in the new law, the Ambassador is advising Ramsamy to come with specific investment opportunities in targeted sectors like agribusiness, tourism, and energy. END COMMENT.

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